

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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MIGUEL ALVAREZ, et al.,

Plaintiff(s),

v.

LOREN K. MILLER, et al.,

Defendant(s).

Case No. 2:23-CV-473 JCM (DJA)

ORDER

Presently before the court is the defendants' motion to dismiss plaintiffs' complaint. (ECF No. 13). Plaintiffs have not filed a response, and the time to do so has now passed.

Plaintiffs are prospective visa applicants who allege that their applications have been pending for an unreasonable amount of time. They seek adjudication of those applications, and, ultimately, permission to remain in the United States.

Pursuant to District of Nevada Local Rule 7-2(d), "the failure of an opposing party to file points and authorities in response to any motion ... constitutes a consent to the granting of the motion." LR 7-2(d); *see Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995) ("Failure to follow a district court's local rules is a proper ground for dismissal.").

However, the court will not automatically grant every unopposed motion. First, the court must weigh the following factors: "(1) the public's interest in expeditious resolution of litigation; (2) the court's need to manage its docket; (3) the risk of prejudice to the defendants; (4) the public policy favoring disposition of cases of their merits; and (5) the availability of less drastic sanctions." *Ghazali*, 46 F.3d at 53.

Having considered defendant's motion and plaintiff's amended complaint in light of the *Ghazali* factors, the court grants the motion. The first three factors—the public's interest in

1 expeditiously resolving this litigation, the court's interest in managing the docket, and the risk of
2 prejudice to defendants—all weigh in favor of dismissal. *See id.*; *Anderson v. Air West*, 542 F.2d
3 522, 524 (9th Cir. 1976) (holding that a presumption of injury arises from the occurrence of
4 unreasonable delay in dismissal). Therefore, dismissal is appropriate

5 Accordingly,

6 IT IS HEREBY ORDERED, ADJUDGED, and DECREED that defendant's motion to
7 dismiss (ECF No. 13) be, and the same hereby is, GRANTED. The clerk is instructed to close
8 this case.

9 DATED June 21, 2023.

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12 UNITED STATES DISTRICT JUDGE
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